

Executive Summary – Enforcement Matter – Case No. 47747
City of Kenedy
RN101428274
Docket No. 2015-1515-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Kenedy PWS, 303 West Main Street, Kenedy, Karnes County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: February 26, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,758

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$18,758

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: \$38

Applicable Penalty Policy: April 2014

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Docket No. 2015-1515-PWS-E

Investigation Information

Complaint Date(s): April 30, 2015

Complaint Information: Alleged that constant low water pressure was experienced for over two years.

Date(s) of Investigation: May 22, 2015

Date(s) of NOE(s): September 22, 2015

Violation Information

1. Failed to provide an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirement [30 TEX. ADMIN. CODE § 290.121(a) and (b) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.a.ii.].
2. Failed to provide Facility records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(E)(iv) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.a.iii.].
3. Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.46(m)(4) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.c.i.].
4. Failed to provide a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.c.v.].
5. Failed to plug and seal abandoned public water supply wells in accordance with 16 TEX. ADMIN. CODE ch. 76 or submit the test results proving that the wells are in a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.i.].
6. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute (gpm) per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.ii.].
7. Failed to provide treatment facility capacity that meets the required groundwater production rate [30 TEX. ADMIN. CODE § 290.45(a)(6) and TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.iii.].

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8. Failed to complete a Customer Service Inspection ("CSI") certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe cross connections or other potential contamination hazards exists, or after any material improvements, corrections, or additions to the private water distribution facilities [30 TEX. ADMIN. CODE § 290.46(j)].

9. Failed to operate the Facility to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi during emergencies such as fire fighting [30 TEX. ADMIN. CODE §§ 290.44(d) and 290.46(r) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision Nos. 2.c.vi. and 2.e.ii.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Begin maintaining an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirement;

ii. Begin maintaining completed monthly water works operation records and maintenance records, including but not limited to copies of CSI reports; and

iii. Ensure that customer service inspections are completed prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other unacceptable plumbing practices exist or after any material improvement, connections, or additions to the private plumbing facilities, including but not limited to, completing a CSI at 729 Karnes Street.

b. Within 45 days, submit written certification to demonstrate compliance with a.

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c. Within 60 days:

- i. Begin maintaining all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition, including but not limited to the reverse osmosis Trains A and B located at the main plant;
- ii. Provide a thorough and up-to-date plant operations manual for operator review and reference; and
- iii. Begin implementing measures or system improvements to ensure that a pressure of 35 psi is maintained throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi is maintained during emergencies such as fire fighting.

d. Within 75 days, submit written certification to demonstrate compliance with c.

e. Within 90 days, begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi during emergencies such as fire fighting.

f. Within 105 days, submit written certification to demonstrate compliance with e.

g. Within 180 days:

- i. Ensure that abandoned public water supply Well Nos. 3 and 6 are properly plugged with cement according to 16 TEX. ADMIN. CODE ch. 76 or submit the test results proving that the wells are in a non-deteriorated condition;
- ii. Provide two or more service pumps having a total capacity of 2.0 gpm per connection; and
- iii. Provide a treatment facility capacity that meets the required groundwater production rate; or submit for review and approval, plans as outlined in 30 TEX. ADMIN CODE § 290.45(g) requesting an alternative capacity requirement for the Facility's treatment capacity.

h. Within 195 days, submit written certification to demonstrate compliance with g.

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Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division,
Enforcement Team 6, MC R-14, (361) 825-3425; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Randy Garza, Mayor, City of Kenedy, 303 West Main
Street, Kenedy, Texas 78119
Respondent's Attorney: N/A



Policy Revision 4 (April 2014)

Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

DATES

Assigned

28-Sep-2015

PCW

4-Dec-2015

Screening

1-Oct-2015

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent

City of Kenedy

Reg. Ent. Ref. No.

RN101428274

Facility/Site Region

13-San Antonio

Major/Minor Source

Major

CASE INFORMATION

Enf./Case ID No.

47747

Docket No.

2015-1515-PWS-E

Media Program(s)

Public Water Supply

Multi-Media

No. of Violations

9

Order Type

Findings

Government/Non-Profit

Yes

Enf. Coordinator

Epifanio Villarreal

EC's Team

Enforcement Team 2

Admin. Penalty \$ Limit Minimum

\$50

Maximum

\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$15,600

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History

20.0%

Adjustment

Subtotals 2, 3, & 7

\$3,120

Notes

Enhancement for one agreed order with a denial of liability.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$0

Economic Benefit

Total EB Amounts

\$13,285

Estimated Cost of Compliance

\$82,380

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7

Final Subtotal

\$18,720

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$18,720

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$18,758

DEFERRAL

0.0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$18,758

Screening Date 1-Oct-2015

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PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.a.ii.

Violation Description

Failed to provide an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, the Respondent had eight bacteriological sample sites but is required to have nine bacteriological sites, no disinfection by-product site is listed, the entry point sample tap location is identified as the wellhead and not at the point before the water enters the distribution system, and no schematic map was provided.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 7.0%

Matrix Notes

30% to 70% of the rule requirements were not met.

Adjustment \$930

\$70

Violation Events

Number of Violation Events 1

447 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$70

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$70

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$84

This violation Final Assessed Penalty (adjusted for limits) \$84

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$45	11-Jul-2014	1-Jun-2016	1.89	\$0	\$6	\$6
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to update the chemical and microbiological monitoring plan for the Facility, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

TOTAL

\$6

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.46(f)(2) and (f)(3)(E)(iv) and TCEQ Agreed Order
Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.a.iii.

Violation Description

Failed to provide Facility records to Commission personnel at the time of the investigation. Specifically, copies of Customer Service Inspection ("CSI") reports were not provided.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				x	1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

447 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$12

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$45	11-Jul-2014	1-Jun-2016	1.89	\$0	\$6	\$6
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to maintain Facility records (\$45 x one record), calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

TOTAL

\$6

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)(4) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.c.i.

Violation Description

Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition. Specifically, the reverse osmosis Trains A and B located at the main plant were leaking.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to maintain the reverse osmosis trains in a watertight condition could allow a significant amount of contaminants to enter the water supply which would not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 5

447 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Five quarterly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E, July 11, 2014, to the date of screening, October 1, 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	11-Jul-2014	1-Jul-2016	1.98	\$1	\$13	\$14
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to repair the reverse osmosis Trains A and B leaks, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$14

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.42(I) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.c.v.

Violation Description

Failed to provide a thorough and up-to-date plant operations manual for operator review and reference. Specifically, the plant operations manual did not include information regarding the elevated and ground storage tanks, booster station, wells, emergency information and daily activities.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		X	

Percent 7.0%

Matrix Notes

30% to 70% of the rule requirement was not met.

Adjustment \$930

\$70

Violation Events

Number of Violation Events 1

447 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$70

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	X (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$70

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$84

This violation Final Assessed Penalty (adjusted for limits) \$84

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50	11-Jul-2014	1-Jul-2016	1.98	\$0	\$7	\$7
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide an up-to date and thorough plant operations manual, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$50

TOTAL \$7

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(u) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.l.

Violation Description

Failed to plug and seal abandoned public water supply wells in accordance with 16 Tex. Admin. Code ch. 76 or submit the test results proving that the wells are in a non-deteriorated condition. Specifically, Well Nos. 3 and 6 have been out of service for at least six years and have not been tested or plugged.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Harm Moderate	Minor
Release			
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix
Notes

Failure to plug or test the abandoned wells could cause the source water to be contaminated with pollutants which would exceed levels protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 30

447 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$9,000

Thirty monthly events are recommended (15 events per well) from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E, July 11, 2014, to the date of screening, October 1, 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,237

Violation Final Penalty Total \$10,800

This violation Final Assessed Penalty (adjusted for limits) \$10,800

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 5

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)	\$20,000	11-Jul-2014	1-Nov-2016	2.31	\$154	\$3,083
Engineering/Construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to plug or test abandoned Well Nos. 3 and 6, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$3,237

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 290.45(b)(1)(D)(III) and Tex. Health & Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.ii.

Violation Description

Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, it was documented that the Facility has 3,077 service connections and must provide a minimum service pump capacity of 6,154 gpm. The Facility currently has one service pump providing 1,650 gpm, which is a 73% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Without adequate service pump capacity, customers of the Facility could experience water outages and backflow problems exposing customers to contaminants which would exceed levels protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 15

447 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,500

Fifteen monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E, July 11, 2014, to the date of screening, October 1, 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,619

Violation Final Penalty Total \$5,400

This violation Final Assessed Penalty (adjusted for limits) \$5,400

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 6

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	11-Jul-2014	1-Nov-2016	2.31	\$77	\$1,542	\$1,619
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide two or more service pumps with a total pump capacity of 2.0 gpm per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,619

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 290.45(a)(6) and Tex. Health & Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.iii.

Violation Description

Failed to provide treatment facility capacity that meets the required groundwater production rate. Specifically, the treatment capacity is 1,289 gpm. With 3,077 connections, the Respondent is required to provide 1,846 gpm production capacity. The current treatment facility capacity of 1,289 gpm is therefore a 30% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Harm Moderate	Minor
Release			
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix
Notes

Failure to provide adequate treatment facility capacity may result in water shortages or outages which could expose customers of the Facility to a significant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 5

447

Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Five quarterly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E, July 11, 2014, to the date of screening, October 1, 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8,093

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 7

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50,000	11-Jul-2014	1-Nov-2016	2.31	\$385	\$7,708	\$8,093
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide a minimum treatment facility capacity that meets the required groundwater production rate, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

TOTAL

\$8,093

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 290.46(j)

Violation Description

Failed to complete a CSI certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe cross connections or other potential contamination hazards exist, or after any material Improvements, corrections, or additions to the private water distribution facilities. Specifically, no CSI certificate was completed at 729 Karnes Street after repairs to the booster pump piping had been made.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix
Notes

100% of the rule requirements were not met.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

132 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$180

This violation Final Assessed Penalty (adjusted for limits) \$180

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$40	22-May-2015	1-Jun-2016	1.03	\$0	\$3	\$3
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to complete a CSI certificate in the format approved by the Executive Director, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40

TOTAL

\$3

Screening Date 1-Oct-2015

Docket No. 2015-1515-PWS-E

PCW

Respondent City of Kenedy

Policy Revision 4 (April 2014)

Case ID No. 47747

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101428274

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 9

Rule Cite(s)

30 Tex. Admin. Code §§ 290.44(d) and 290.46(r) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision Nos. 2.c.vi. and 2.e.ii.

Violation Description

Failed to operate the Facility to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi during emergencies such as fire fighting. Specifically, the pressure taken at the complainant's meter was found to be 8 psi.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Inadequate pressure throughout the distribution system could result in water outages and backflow problems that could expose customers of the Facility to contaminants which would exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$300

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$300

Violation Final Penalty Total \$360

This violation Final Assessed Penalty (adjusted for limits) \$360

Economic Benefit Worksheet

Respondent City of Kenedy
Case ID No. 47747
Reg. Ent. Reference No. RN101428274
Media Public Water Supply
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	11-Jul-2014	1-Jun-2016	1.89	\$189	n/a	\$189

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement measures to ensure that a pressure of 35 psi is maintained throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi is maintained during emergencies such as fire fighting, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Jul-2014	1-Oct-2015	2.17	\$11	\$100	\$111

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary for additional oversight that could have prevented inadequate pressures throughout the distribution system calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1852-MLM-E to date of screening.

Approx. Cost of Compliance

\$2,100

TOTAL

\$300

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PENDING Compliance History Report for CN600528459, RN101428274, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600528459, City of Kenedy

Classification: SATISFACTORY

Rating: 6.38

Regulated Entity: RN101428274, CITY OF KENEDY

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 303 W MAIN ST KENEDY, KARNES COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1280002 **WATER LICENSING LICENSE** 1280002

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: October 01, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 01, 2010 to October 01, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: EPI VILLARREAL

Phone: (361) 825-3425

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 07/11/2014 ADMINORDER 2013-1852-MLM-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)

30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Failed to operate the Facility to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi during emergencies such as fire fighting

Classification: Moderate

Citation: 28 TWC Chapter 11, SubChapter A 11.1272(c)

30 TAC Chapter 288, SubChapter B 288.20(a)

30 TAC Chapter 288, SubChapter C 288.30(5)(B)

Description: Failure to provide a drought contingency plan.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failed to properly seal the well heads with the use of gaskets or a sealing compound and screen the well casing vent with an opening that is covered with a 16-mesh or finer corrosion-resistant screen facing downward, elevated, and located as to minimize the drawing of contaminants into the well

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)

Description: Failed to ensure that the openings to the air-release devices on the discharge piping of each well are covered with a 16-mesh or finer corrosion resistant screen

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failed to calibrate the Facility's well meters at least once every three years,

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)

Description: Failed to properly house the gas chlorine cylinders so that they are protected from adverse weather conditions and vandalism,

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to provide ownership signs. Specifically, no ownership signs were posted at Well Site #14 and at the Elevated Storage Tank located at the prison.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Description: Failed to conduct an annual inspection of the ground and elevated storage tanks

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)

Description: Failed to have all backflow prevention assemblies tested on an annual basis by a recognized backflow assembly tester who certifies that they are operating within specifications.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 290.47(i), .

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)

Description: Failed to plug and seal abandoned public water supply wells in accordance with 16 TEX. ADMIN. CODE ch. 76 or submit test reports proving that the wells are in a non-deteriorated condition

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

30 TAC Chapter 290, SubChapter F 290.121(b)

Description: Failed to provide an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements,

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failed to provide a thorough and up-to-date plant operations manual for operator review and reference

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(II)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failed to provide Facility records to Commission personnel at the time of the investigation

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(a)(6)

Description: Failed to provide treatment facility capacity that meets the required groundwater production rate,

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

	Start Date
1	12/11/2014*

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	September 14, 2011	(950404)
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E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF KENEDY
RN101428274**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1515-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Kenedy (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 303 West Main Street in Kenedy, Karnes County, Texas (the "Facility") that has approximately 3,077 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on May 22, 2015, TCEQ staff documented that the Respondent had eight bacteriological sample sites but is required to have nine bacteriological sites, no disinfection by-product site is listed, the entry point sample tap location is identified as the wellhead and not at the point before the water enters the distribution system and no schematic map was provided.
3. During an investigation conducted on May 22, 2015, TCEQ staff documented that copies of Customer Service Inspection ("CSI") reports were not provided.
4. During an investigation conducted on May 22, 2015, TCEQ staff documented that the reverse osmosis Trains A and B located at the main plant were leaking.
5. During an investigation conducted on May 22, 2015, TCEQ staff documented that the plant operations manual did not include information regarding the elevated and ground storage tanks, booster station, wells, emergency information and daily activities.
6. During an investigation conducted on May 22, 2015, TCEQ staff documented that Well Nos. 3 and 6 have been out of service for at least six years and have not been tested or plugged.
7. During an investigation conducted on May 22, 2015, TCEQ staff documented that the Facility has 3,077 service connections and must provide a minimum service pump capacity of 6,154 gallons per minute ("gpm"). The Facility currently has one service pump providing 1,650 gpm, which is a 73% deficiency.
8. During an investigation conducted on May 22, 2015, TCEQ staff documented that the treatment facility capacity is 1,289 gpm. With 3,077 connections, the Respondent is required to provide 1,846 gpm production capacity. The 1,289 gpm current treatment facility capacity of is therefore a 30% deficiency.
9. During an investigation conducted on May 22, 2015, TCEQ staff documented that no CSI certificate was completed for 729 Karnes Street after repairs to the booster pump piping had been made.
10. During an investigation conducted on May 22, 2015, TCEQ staff documented that the pressure taken at the complainant's meter was found to be 8 pounds per square inch ("psi").
11. The Respondent received notice of the violations on October 1, 2015.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirement, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.a.ii.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide Facility records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(E)(iv), and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.a.iii.
4. As evidenced by Findings of Fact No. 4, the Respondent failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.c.i.
5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.c.v.
6. As evidenced by Findings of Fact No. 6, the Respondent failed to plug and seal abandoned public water supply wells in accordance with 16 TEX. ADMIN. CODE ch. 76 or submit the test results proving that the wells are in a non-deteriorated condition, in violation of 30 TEX. ADMIN. CODE § 290.46(u) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.i.
7. As evidenced by Findings of Fact No. 7, the Respondent failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.ii.
8. As evidenced by Findings of Fact No. 8, the Respondent failed to provide treatment facility capacity that meets the required groundwater production rate, in violation of 30 TEX. ADMIN. CODE § 290.45(a)(6) and TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision No. 2.g.iii.
9. As evidenced by Findings of Fact No. 9, the Respondent failed to complete a CSI certificate prior to providing continuous service to new construction or any existing

service when the water purveyor has reason to believe cross connections or other potential contamination hazards exist, or after any material improvements, corrections, or additions to the private water distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.46(j).

10. As evidenced by Findings of Fact No. 10, the Respondent failed to operate the Facility to maintain a minimum pressure of 35 psi throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi during emergencies such as fire fighting, in violation of 30 TEX. ADMIN. CODE §§ 290.44(d) and 290.46(r) and TCEQ Agreed Order Docket No. 2013-1852-MLM-E, Ordering Provision Nos. 2.c.vi. and 2.e.ii.
11. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
12. An administrative penalty in the amount of Eighteen Thousand Seven Hundred Fifty-Eight Dollars (\$18,758) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Eighteen Thousand Seven Hundred Fifty-Eight Dollar (\$18,758) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Eighteen Thousand Seven Hundred Fifty-Eight Dollars (\$18,758) as set forth in Section II, Paragraph 12 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Kenedy, Docket No. 2015-1515-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin maintaining an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirement, in accordance with 30 TEX. ADMIN. CODE § 290.121;
 - ii. Begin maintaining completed monthly water works operation records and maintenance records, including but not limited to copies of CSI reports, in accordance with by 30 TEX. ADMIN. CODE § 290.46; and
 - iii. Ensure that customer service inspections are completed prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other unacceptable plumbing practices exist or after any material improvement, connections, or additions to the private plumbing facilities, including but not limited to, completing a CSI at 729 Karnes Street, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii.
 - c. Within 60 days after the effective date of this Agreed Order:
 - i. Begin maintaining all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition, including but not limited to the reverse osmosis Trains A and B located at the main plant, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Provide a thorough and up-to-date plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42; and

- iii. Begin implementing measures or system improvements to ensure that a pressure of 35 psi is maintained throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi is maintained during emergencies such as fire fighting, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.c.i. through 2.c.iii.
- e. Within 90 days after the effective date of this Agreed Order, begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi during emergencies such as fire fighting, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- f. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e.
- g. Within 180 days after the effective date of this Agreed Order:
 - i. Ensure that abandoned public water supply Well Nos. 3 and 6 are properly plugged with cement according to 16 TEX. ADMIN. CODE ch. 76 or submit the test results proving that the wells are in a non-deteriorated condition, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Provide two or more service pumps having a total capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - iii. Provide a treatment facility capacity that meets the required groundwater production rate; or submit for review and approval, plans as outlined in 30 TEX. ADMIN. CODE § 290.45(g) requesting an alternative capacity requirement for the Facility's treatment capacity.

The alternative capacity request shall be sent to:

Utilities Technical Review Team
Water Supply Division, MC-153
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the alternative capacity request within 30 days after the date of such requests, or by any other deadline specified in writing.

- h. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.g.i. through 2.g.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



5/16/16

For the Executive Director

Date

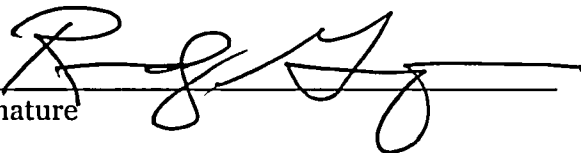
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Kenedy. I am authorized to agree to the attached Agreed Order on behalf of the City of Kenedy, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Kenedy waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

JANUARY 12, 2016

Date

Randy Garza

Mayor

Name (Printed or typed)
Authorized Representative of
City of Kenedy

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.